REMARKS

The non-final Office Action mailed November 25, 2008 has been received and reviewed. Prior to the present communication, claims 1-11, 13-22, 25-27 and 29-31 were pending in the subject application. Each of claims 1, 2, 7, 10, 13, 25 and 29 has been amended herein and claims 9, 20, 21, 26, 27 and 30 have been cancelled. As such, claims 1-8, 10, 11, 13-19, 22, 25, 29 and 31 remain pending. Applicants respectfully request reconsideration of the present Application in view of the above amendments and the following remarks.

Objections

Claim 10 has been objected to based upon an inadvertent informality. More particularly, claim 10 has been objected to as the claim improperly depends from a non-existent claim. Claim 10 has been amended as herein above set forth to properly depend from claim 2. Accordingly, this objection is believed to have been overcome.

Rejections based on 35 U.S.C. § 101

Claims 1-11 have been rejected under 35 U.S.C. § 101 as being directed toward software per se, which is not a category of statutory subject matter. *See*, *Office Action* at page 3, ¶ 1. More particularly, it is stated in the Office action that "according to page 9, par 0032 of the specification, a detector module, a nearby device list, and a user configuration authorization module are preferably configured as software framework. "A system" comprising a detector [] module, a nearby device list, and a user configuration authorization module (i.e., software) does not include any functional hardware structure of a system. A system (i.e., machine) comprising software is considered as program per se, which is not one of the categories of statutory subject matter." *Id.*

Independent claim 1 has been amended as herein above set forth to recite a system having a processor and one or more computer-readable storage media having computer-usable instructions embodied thereon that, when executed, perform a method for facilitating interaction between a first participating device and the first participating device's immediate environment. The system of claim 1 includes, in part, "a detection module associated with the first participating device for automatically detecting proximity of a second participating device within the first participating device's immediate environment and utilizing such proximity detection to generate a dynamically updated list of detected nearby devices within the first participating device's immediate environment." Further, claim 1 has been amended to recite, in part, "a user-configurable authorization module for authorizing the first participating device to adjust a user interface associated therewith." It is respectfully submitted that claim 1, as amended herein, includes functional hardware components and, accordingly, is directed to statutory subject matter. As such, the 35 U.S.C. §101 rejection of independent claim 1 is believed to have been overcome.

Each of claims 2-8, 10 and 11 depends, either directly or indirectly, from independent claim 1 and, accordingly, the 35 U.S.C. §101 rejection of these claims is believed to have been overcome for at least the above stated reasons. Withdrawal of the 35 U.S.C. §101 rejection of claims 1-8, 10 and 11 is respectfully requested. Claim 9 has been cancelled by way of the present amendment and, accordingly, the rejection of this claim has been rendered moot.

Claims 25-27 have been rejected under 35 U.S.C. § 101 as being directed toward software per se, which is not a category of statutory subject matter. *See*, *Office Action* at page 3, ¶ 2. More particularly, it is stated in the Office action that "according to page 9, par 0032 of the specification, a detector module, a nearby device list, and a configurable resource regulation

mechanism are preferably configured as software framework. "A system" comprising a detector module, a nearby device list, and a configurable resource regulation mechanism (i.e., software) does not include any functional hardware structure of a system. A system (i.e., machine) comprising software is considered as program per se, which is not one of the categories of statutory subject matter." *Id.*

Independent claim 25 has been amended as herein above set forth to recite a system having a processor and one or more computer-readable storage media having computer-usable instructions embodied thereon that, when executed, perform a method for sharing resources among multiple participating devices, wherein each of the multiple participating devices has a device specific set of application resources. The system of claim 25 includes, in part, "a detection module associated with the first participating device for detecting proximity of the first participating device to a second participating device." Further, claim 25 has been amended herein to recite, in part, a configurable resource regulation mechanism comprising "a user-configurable authorization module for providing each participating device with an authorization status as one of a controlled device and a controlling device and an arbitration mechanism for resolving disputes between devices having an identical authorization status." It is respectfully submitted that claim 25, as amended herein, includes functional hardware components and, accordingly, is directed to statutory subject matter. As such, the 35 U.S.C. §101 rejection of independent claim 25 is believed to have been overcome.

Each of claims 26 and 27 has been cancelled by way of the present amendment and, accordingly, the rejection of these claims has been rendered moot.

Rejections based on 35 U.S.C. § 102(e)

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdeggal Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 2 USPQ 2d 1913, 1920 (Fed. Cir. 1989). *See also*, MPEP § 2131.

Claims 1-8, 10-11, 13-20, 22, 25-26 and 29-31 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No. 2004/0003073 to Krzyzanowski et al. (hereinafter the "Krzyzanowski reference"). As the Krzyzanowski reference fails to describe, either expressly or inherently, each and every element as set forth in the claims as amended, Applicants respectfully traverse these rejections, as hereinafter set forth.

Independent claim 1, as amended herein, recites a system having a processor and one or more computer-readable storage media having computer-usable instructions embodied thereon that, when executed, perform a method for facilitating interaction between a first participating device and the first participating device's immediate environment. The recited system comprises a detection module associated with the first participating device for automatically detecting proximity of a second participating device within the first participating device's immediate environment and utilizing such proximity to generate a dynamically updated list of detected nearby devices within the first participating device's immediate environment, wherein proximity of the second participating device within the first participating device's immediate environment is close in physical space, and wherein the list of detected nearby devices includes a record of participating devices detected by the detection module to be close in physical space and their respective locations; and a user-configurable authorization module for authorizing the first participating device to adjust a user interface associated therewith in a pre-determined manner in response to the detection of the second participating device, wherein the user-configurable authorization module comprises an arbitration module for resolving disputes between devices having an identical authorization status (emphasis added).

Independent claim 13, as amended herein, recites a method being performed by a processor and a memory for facilitating interaction between a device and a device immediate environment. The method comprises detecting, via a first computing process, a participant present within the device immediate environment; maintaining, via a second computing process, a dynamically updated list of detected nearby devices within the device immediate environment for each device, wherein the list of detected nearby devices maintains a record of devices detected to be close in physical space and their locations; and adjusting, via a third computing process, a device user interface based on user-configured rules set forth in a device authorization module in response to the detection of the participant, wherein the device authorization module provides an authorization status as one of controlled or controlling and resolves disputes between devices having an identical authorization status, and wherein each of the first, second and third computing processes is performed by the device (emphasis added).

Independent claim 25, as amended herein, recites a system having a processor and one or more computer-readable storage media having computer-usable instructions embodied thereon that, when executed, perform a method for sharing resources among multiple participating devices, wherein each of the multiple participating devices has a device specific set of application resources. The system comprises a detection module associated with the first participating device for detecting proximity of the first participating device to a second participating device, wherein proximity of the first participating device to the second participating device is close in physical space; a dynamically updated nearby device list of detected devices within the first participating device's immediate environment for maintaining a record of participating devices detected to be close in physical space and their locations; and a configurable resource regulation mechanism for making the device specific application resources

from the second participating device available to the first participating device, wherein the configurable resource regulation mechanism comprises a user-configurable authorization module for providing each participating device with an authorization status as one of a controlled device and a controlling device and an arbitration mechanism for resolving disputes between devices having an identical authorization status (emphasis added).

Independent claim 29, as amended herein, recites a method being performed by a processor and a memory for facilitating resource sharing between multiple devices. The method comprises allowing, via a first computing process, a user to configure regulation of shared resources between multiple participating devices; maintaining, via a second computing process, a list of detected participating devices based on proximity within an immediate environment to a first participating device, wherein proximity within an immediate environment is detected to be close in physical space, and wherein the list of detected participating devices maintains a record of devices detected to be close in physical space and their locations; and enabling, via a third computing process, regulation of device resources based on proximity of a first participating device to a second participating device, wherein regulation includes making device specific application resources of the first participating device available to the second participating device, based on an authorization status identifying each device as one of a controlling device and a controlled device using an authorization module and resolving disputes between devices having an identical authorization status, wherein each of the first, second and third computing processes is performed by one or more of the multiple devices (emphasis added).

By way of contrast, the Krzyzanowsk reference describes a method, system and computer program product for managing a plurality of devices and/or applications within an environment with a control center that comprises one or more servers or processing systems and

enables centralized command and control of the devices and/or applications. *See*, *Krzyzanowski reference*, ¶ [0009]. It is respectfully submitted that the Krzyzanowski reference does not disclose describe a user-configurable authorization module adjusting a device user interface in response to the detection of a participating device, as recited in each of amended independent claims 1 and 13. The security controller **314** of the Kryzanowski reference is associated only with the control server **114** or controller client **110**. See, *Kryzanowski reference*, Figure 3 and ¶¶ [0094] and [0104]. The devices in the Kryzanowski reference do not have the ability to directly authorize adjustment of their user interface in response to the detection of a second participating device without the control server or the controller client. Therefore without the control server or the controller client, this recited element of independent claims 1 and 13 of the present application is missing from the Kryzanowski reference.

Still further, the Kryzanowski reference does not disclose an arbitration module or any mechanism for resolving disputes between devices having an identical authorization status, as recited in each of independent claims 1, 13, 25 and 29. It is admitted in the outstanding Office Action that the Kryzanowski reference does not describe an arbitration module for resolving disputes between devices having an identical authorization status. *See*, *Office Action* at page 11, ¶ 3. For this element of the claims, the Office relies upon U.S. Publication No. 2003/0037284 to Srinivasan et al. (hereinafter the "Srinivasan reference").

It is respectfully submitted that, like Krzyzanowski, the Srinivasan reference also fails to teach or suggest an arbitration module or any mechanism associated with the first device for resolving disputes between devices having an identical authorization status, as recited in independent claims 1, 13, 25, and 29. Rather, the Srinivasan reference describes a way for a fault-tolerant server group to automatically resolve an inconsistent mastership situation in which

an undesirable number of master servers exist. *See, Srinivasan reference,* ¶ [0015]. As described by the Srinivasan reference, a client communicates with the servers in the server group through the master server. *See id.,* ¶ [0034]. The mastership of the server is registered in the name server. *See id.*, ¶ [0033] and Figure 1. Mastership is verified with the name server. The resolution of the multiple mastership situation does not take place just between the devices involved. Multiple mastership situations are detected and resolved by the name server, which is a separate device. *See id.*, ¶ [0063]. It is respectfully submitted, however, that the Srinivasan reference is void of any teaching regarding resolution of disputes between devices having an identical authorization status, within the first participating device. Thus, even if the Office combines the teachings of the Kryzanowski reference with those of the Srinivasan reference, the invention recited in each of independent claims 1, 13, 25 and 29 is neither taught nor suggested.

As the Kryzanowski reference fails to describe, either expressly or inherently, each and every element as set forth in amended independent claims 1, 13, 25, and 29, it is respectfully submitted that the Kryzanowski reference fails to anticipate these claims, as amended herein. Accordingly, withdrawal of the 35 U.S.C. §102(e) rejection of claims 1, 13, 25, and 29 is respectfully requested. Each of claims 1, 13, 25 and 29 is believed to be in condition for allowance and such favorable action is respectfully requested.

Dependent claims 2-8, 10-11, 14-19, 22, and 31 further define novel features of the claimed embodiments and each depends, either directly or indirectly, from one of the independent claims 1, 13, 25, and 29. Accordingly, for at least the reasons set forth above with respect to independent claims 1, 13, 25, and 29, dependent claims 2-8, 10-11, 14-19, 22, and 31 are believed to be in condition for allowance by virtue of their dependency and such favorable action is respectfully requested. Each of claims 20, 26 and 30 has been cancelled by way of the

present communication and, accordingly, the rejection of these claims under 35 U.S.C. §102(e) has been rendered moot.

Rejections based on 35 U.S.C. § 103(a)

Claims 9, 21 and 27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Krzyzanowski reference in view of the Srinivasan reference. Each of claims 9, 21 and 27 has been cancelled by way of the present communication and, accordingly, the 35 U.S.C. § 103(a) rejection of these claims has been rendered moot.

CONCLUSION

For at least the reasons stated above, claims 1-8, 10, 11, 13-19, 22, 25, 29 and 31 are believed to be in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or twilhelm@shb.com (such communication via email is herein expressly granted) – to resolve the same.

The fee for a three-month extension of time is submitted herewith. It is believed that no additional fee is due. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112, referencing attorney docket no. MFCP.108793.

Respectfully submitted,

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